IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL APPLICATION NO.795 of 2002.
IN
SECOND APPEAL NO.565 OF 2002.

Office notes, office memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Shri P.R.Arjunwadkar for the Appellants.

Ms.A.R.X.Baxi for the Respondents.

CORAM : ABHAY S.OKA, J.

DATED : 5th April, 2006.

P.C.:

1. Rule. Respondent waives service. Taken up for hearing forthwith.

2. It is not in dispute that the Respondent is in possession of the suit property. The Second Appeal is admitted on the question whether the trial Court could have directed Appellants Nos.2 to 6 to execute the sale deed though they are not parties to the agreement. However, the Appellant No.1 is very much a party to the agreement and so far as the existence of agreement is concerned, there is concurrent findings of fact. Therefore, the stay cannot be granted in favour of Appellant No.1.

3. Hence the following order:

i) The decree for specific performance shall not be executed as against Appellants Nos.2 to 6 till final disposal of the Second Appeal.

ii) Prayer for stay in so far as Appellant No.1 is concerned is rejected.

Judge.